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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,795	02/19/2002	Robert Bridges	BOUL/0007	1519
7590	02/04/2005		EXAMINER	
William B Patterson Moser Patterson & Sheridan Suite 1500 3040 Post Oak Boulevard Houston, TX 77056			COHEN, AMY R	
			ART UNIT	PAPER NUMBER
			2859	
				DATE MAILED: 02/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/936,795	BRIDGES, ROBERT
	<b>Examiner</b> Amy R Cohen	<b>Art Unit</b> 2859

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 22 November 2004.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 31-35 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 31-35 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 17 September 2001 is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 31, 33, 34 are rejected under 35 U.S.C. 102(b) as being anticipated by Wainwright (U. S. Patent No. 4,682,156).

Wainwright teaches a method of detecting a chemical leakage (Col 1, lines 48-59) comprising the steps of: positioning a device (16) in a site (12) which is normally surrounded by a first medium, the site being in a region of potential chemical leakage of a second medium, the device comprising an indicator element (48) which is held in a first position by means of a failure element (18) which is held in tension (28), the failure element being made of a material which is designed not to fail in the first medium, but to fail readily in the presence of the second medium thereby releasing the indicator element from its first position and allowing it to move into a second position in order to provide a rapid indication of the leak (Col 4, line 58-Col 5, line 11); and monitoring the failure element to determine when it has moved to the second position indicating the presence of a leak (Col 5, lines 8-11).

Wainwright teaches a method of detecting leaks from a vessel in a filling station containing a potential source of chemical contaminants (Col 1, lines 10-28), the method comprising the steps of: positioning a device (16) in the ground beneath a vessel (Col 3, lines 10-27) and monitoring a failure element to determine when it has moved to a second position indicating the presence of a leak (Col 4, line 58-Col 5, line 11), whereby the device for detecting

the presence of a chemical contaminant comprises an indicator element (48) which is held in a first position by means of the failure element (18) which is held in tension (28), the failure element being made of a material which fails in the presence of the chemical contaminant (Col 4, line 58-Col 5, line 11), thereby releasing the indicator element from its first position and allowing it to move into a second position in order to provide an indication of the presence of the contaminant (Col 4, line 58-Col 5, line 11).

Wainwright teaches a method of detecting leaks from a vessel in a filling station containing a potential source of chemical contaminants (Col 1, lines 10-28), the method comprising the steps of: positioning a device (16) in the ground beneath the vessel (Col 3, lines 10-28), the device having indicator element (48) held in a first position by a failure element (18), the failure element is held in tension (28) and is made of a material which fails in the event of a chemical leak, thereby releasing the indicator element from the first position to a second position in order to provide a rapid indication of the chemical leak (Col 4, line 58-Col 5, line 11); and monitoring the failure element to determine when it has moved to the second position indicating the presence of the chemical leak (Col 4, line 58-Col 5, line 11).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 32 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wainwright in view of Hopfenfeld (U. S. Patent No. 5,200,615).

Wainwright discloses the method of detecting a chemical leakage and the method of detecting leaks from a vessel in a filling station containing a potential source of chemical contaminant as described above in paragraph 2.

Wainwright does not disclose the methods wherein positioning the device comprises positioning an arrangement, the arrangement comprising a plurality of devices.

Hopenfeld discloses a method of detecting a chemical leakage and a method of detecting leaks from a vessel in a filling station containing a potential source of chemical contaminant (Col 2, line 30-Col 3, line 11) wherein positioning the device comprises positioning an arrangement, the arrangement comprising a plurality of devices (Col 2, line 30-Col 3, line 11).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the methods of Wainwright to include positioning an arrangement, wherein the arrangement comprises a plurality of devices, as taught by Hopenfeld, so that a user could detect if a leak has occurred over several areas, ensuring that the leak will be detected quickly and the location of the leak will be more accurately displayed.

#### *Response to Arguments*

5. Applicant's arguments, see Amendment and Remarks, filed November 22, 2004, with respect to the rejection(s) of claim(s) 31 and 32 under Payne and 33-35 under Heintzelman and Payne have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Wainwright and Hopenfeld.

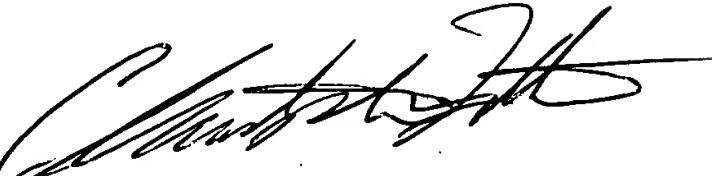
***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents disclose indicators Mann (U. S. Patent No. 5,174,150), Hsu (U. S. Patent No. 5,146,778), Flippo, Jr. (U. S. Patent No. 4,770,028), Niedermeyer (U. S. Patent No. 4,228,428), and Underwood, Jr. (U. S. Patent No. 3,115,862).
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy R Cohen whose telephone number is (571) 272-2238. The examiner can normally be reached on 8 am - 5 pm, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ARC  
February 2, 2005



Christopher Fulton  
Primary Examiner  
Tech Center 2800